

10646-4
RECORDATION NO. Filed 1425

UMP - HAYWARD

JUL 19 1979 - 2 32 PM

INTERSTATE COMMERCE COMMISSION

BILL OF SALE AND ASSIGNMENT

KNOW ALL MEN BY THESE PRESENTS, that FUNDING SYSTEMS RAILCARS, INC. a Delaware corporation ("Seller"), for and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration received from HAYWARD MANUFACTURING COMPANY, INC., a New Jersey corporation ("Buyer"), the receipt and sufficiency of which is hereby acknowledged, has bargained, sold, transferred, assigned, set over and conveyed, and by these presents does bargain, sell, transfer, assign, set over and convey unto the Buyer, its successors and assigns forever, but subject to the rights, interests, liens and leases referred to in the schedule attached hereto (the "Schedule"), all of the equipment listed on the Schedule, the lease referred to in the Schedule, the First Guarantee referred to in the Purchase Agreement (as hereinafter defined) and all of the rights and interests referred to in Section 4 of the Purchase Agreement (as hereinafter defined). (Such equipment, lease, First Guarantee and rights and interests are hereinafter referred to collectively as the "Property.")

TO HAVE AND TO HOLD the Property unto the Buyer, its successors and assigns, to its and their own use and behalf forever.

Seller reaffirms as of the date hereof the representations and warranties made by Seller to Buyer in Section 2.1 of a certain purchase agreement between Seller and Buyer of even date (the "Purchase Agreement"), as if such representations and warranties were set forth herein in haec verba.

In the manner and to the extent, and subject to the conditions with respect thereto, provided for in the Purchase Agreement, Seller shall indemnify, defend and hold Buyer harmless from and against any and all claims or liabilities resulting from any misrepresentation by, or breach of warranty, covenant or agreement, of Seller set forth herein or in the Purchase Agreement.

Seller, for itself and its successors and assigns, further covenants and agrees to do, execute and deliver, or to cause to be done, executed and delivered, all such further acts, transfers and assurances, for the better assuring, conveying and confirming unto Buyer and its successors and assigns, all and singular, the Property hereby bargained, sold, assigned, transferred, set over and conveyed, as Buyer and its successors and assigns shall request.

This Bill of Sale and the representations, warranties, and covenants herein contained shall inure to the benefit of Buyer and its successors and assigns, shall be binding upon Seller and its successors, assigns and transferees, and shall survive the execution and delivery hereof.

IN WITNESS WHEREOF, Seller has caused this Bill of Sale to be executed on July 18, 1979.

SELLER: FUNDING SYSTEMS RAILCARS, INC.

By: 

SCHEDULE

Equipment:

110 100-ton, 4000 cubic feet, triple pocket open top hopper cars, manufactured by Bethlehem Steel Corporation and bearing identifying marks and numbers as follows:

UMP 8000 through UMP 8109, inclusive

Lease:

Lease covering the Equipment between Funding Systems Railcars, Inc., as lessor and Upper Merion and Plymouth Railroad, as lessee, dated July 18, 1979. The Lease is for a term of 15 years and 6 months and calls for fixed rentals of \$104,762.11 for each of the first two three-month periods, and \$121,319.83 for each of the next sixty three-month periods thereafter as well as certain contingent rentals.

Lien:

First lien security interest of Marmon Retirement Trust in the Equipment and Lease, pursuant to a security agreement between Marmon Retirement Trust, as secured party and Funding Systems Railcars, Inc., as debtor, dated July 18, 1979. Lien secures indebtedness of \$3,104,062.50, together with interest at the annual rate of 13.5% and calls for debt service equal to the payments of fixed rent required to be made under the Lease. Such debt service will fully liquidate the indebtedness.

Location:


Equipment to be delivered at Somerset, Pennsylvania.

STATE OF NEW YORK

County of New York, ss:

On this 18th day of July, 1979, before me personally appeared Stanley C. Skurman, to me personally known, who being by me duly sworn, says that he is the President of Funding Systems that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[Seal]


ANITA RIZZO
NOTARY PUBLIC, State of New York
No. 03-4625488
Qualified in Bronx County
Commission Expires March 30, 1980

My comission expires

3/1/80